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PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

Griffith Hack
GPO Box 1285K
MELBOURNE VIC 3001

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year)		1 0 FEB 2005
Applicant's or agent's file reference FP20892 AJFW		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/AU2004/001765	International filing date (day/month/year) 15 December 2004	Priority date (day/month/year) 15 December 2003
International Patent Classification (IPC) or both national classification and IPC Int. Cl. ⁷ F03C 1/053; F16H 21/20; F16C 3/28		
Applicant HYDROSTATIC DESIGN TECHNOLOGY PTY LTD et al		

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer ASANKA PERERA Telephone No. (02) 6283 2373
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/AU2004/001765

Box No. I	Basis of the opinion
1.	<p>With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.</p> <p><input type="checkbox"/> This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).</p>
2.	<p>With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> in written format</p> <p><input type="checkbox"/> in computer readable form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed.</p> <p><input type="checkbox"/> filed together with the international application in computer readable form.</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search.</p>
3.	<p><input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p>
4.	<p>Additional comments:</p>

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International application No.

PCT/AU2004/001765

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

I. Statement

Novelty (N)	Claims 1-16	YES
	Claims	NO
Inventive step (IS)	Claims 4-14	YES
	Claims 1-3, 15, 16	NO
Industrial applicability (IA)	Claims 1-16	YES
	Claims	NO

Citations and explanations:

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 : DE 3936649A1

D2 : SU 1002611A

D3 : SU 1775007A3

D4 : SU 1789750A1

D5 : US 5588339A

D6 : JP 11190326A

D7 : DE 3711729A1

D8 : EP 0271456B1

Inventive Step (IS)Claims 1, 15, 16

D1, D4-D8 individually disclose fluid machines with adjustable crank throws. D1 and D4 in particular shows crankshafts supporting multiple piston/cylinder arrangement. Given this disclosure, a radial arrangement of such pistons and limiting such arrangements to specified angular spacings are considered non-inventive design variations within the common general knowledge of person skilled in the art.

Claims 2, 3

D2 teaches the use of spherical bearing in an adjustable stroke piston engine and thus in obvious combination with D1, this document renders the subject matter of claim 2 lacking an inventive step over the cited art.

D3 teaches an adjustable stroke piston pump with the stroke being adjustable between zero to a maximum and thus in obvious combination with D1, this document renders the subject matter of claim 3 lacking an inventive step over the cited art.